IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 177 of 2006 (S/B)

Vijay Kumar Jain S/o Late Sri Hukum Chand Jain,
Executive Engineer, Tubewell Division,
Irrigation Department, Halwani,
District Nainital. …….. Petitioner

Versus

1. State of Uttaranchal,
through Principal Secretary, Irrigation Department,
Govt. of Uttaranchal, Dehradun.
2. Chief Engineer and Head of Department,
Irrigation Department, Dehradun.
3. Sri S.K. Vaishya, Executive Engineer (Mechanical),
Irrigation Department,
Government Workshop, Roorkee. …….. Respondents

Mr. Alok Mehra, Advocate on behalf of Mr. Manoj Tewari, Advocate for the petitioner.
Mr. Nanak Chand Gupta, Standing Counsel and Mr. Harendra Belwal, Brief Holder for respondents Nos. 1 & 2.
Mr. Ajay Singh Bisht, Advocate for respondent No. 3.

JUDGMENT

Coram: Hon'ble Rajeev Gupta, C.J.
Hon'ble Rajesh Tandon, J.

RAJEEV GUPTA, C.J. (Oral)

Mr. Alok Mehra, Advocate on behalf of Mr. Manoj Tewari, Advocate for the petitioner.

Mr. Nanak Chand Gupta, Standing Counsel and Mr. Harendra Belwal, Brief Holder for respondents Nos. 1 & 2.

Mr. Ajay Singh Bisht, Advocate for respondent No. 3.

They are heard.

2. Petitioner Vijay Kumar Jain has filed this writ petition for the following reliefs:

> "A. To issue a writ, order or direction in the nature of certiorari for quashing the impugned transfer orders dated 27.5.2006 passed by Respondent No. 1 (Contained in Annexure No. 3 and 4 to the writ petition).
>
> B. To issue a writ, order or direction in the nature of mandamus commanding the Respondent No. 1

and 2 not to disturb the petitioner from Haldwani till he completes normal duration of posting as per the transfer policy.

C. To issue any other writ, order or direction, which this Hon'ble Court may deem fit and proper in the circumstances of the case.

D. Award the cost of the writ petition in favour of the petitioner,"

3. The petitioner, in substance, in substance, is challenging his transfer from Tubewell Division, Haldwani to Minor Canal Division, Almora vide impugned order dated 27.05.2006 (Annexure No. 3).

4. On 07.06.2006, following interim order was passed in the writ petition:

"……..Meanwhile, the operation of the impugned transfer orders dated 27.05.2006 passed by respondent No. 1 – Principal Secretary, Irrigation Department, Government of Uttaranchal, Dehradun shall remain stayed. If the respondent No. 3 has joined his service at the transferred place, he shall be transferred somewhere else at some suitable place after obtaining his representation."

5. In view of the above interim order dated 07.06.2006, the respondents have passed another order dated 11.08.2006 superseding the impugned order dated 27.05.2006 and allowing petitioner Vijay Kumar Jain to continue at Tubewell Division, Haldwani. The order dated 11.08.2006 further stipulates that this order would be subject to the final decision in the petitioner's writ petition.

6. As the impugned order of the petitioner's transfer dated 27.05.2006 (Annexure No. 3) already stands superseded vide order dated 11.08.2006 and the petitioner has been allowed to continue at Tubewell Division, Haldwani from where he was proposed to be transferred to Minor Canal Division, Almora vide impugned order dated 27.05.2006, the writ petition, in our opinion, has been rendered infructuous.

7. The writ petition, therefore, is dismissed as infructuous leaving it open to the petitioner to challenge the order, if any, to be passed by the respondents about his transfer in future.

8. Consequently, the interim order dated 07.06.2006 stands vacated automatically.

9. With the above order, CLMAs Nos. 6580 of 2006 and 12870 of 2006 also stand disposed of.

(Rajesh Tandon, J.) **(Rajeev Gupta, C.J.)**
17.10.2006 17.10.2006

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